
Meeting	Area Planning Sub-Committee
Date	3 May 2018
Present	Councillors Galvin (Chair), Shepherd (Vice-Chair), Cannon, Craghill, Crawshaw, Dew, Flinders, Gillies, Hunter, Orrell [items 44 - 47d] and Carr (Substitute)
Apologies	Councillor Mercer

Site Visits

Site	Visited by	Reason
4a: Self-Storage Facility, Water Lane	Cllrs Galvin, Shepherd, Cannon, Craghill, Crawshaw, Dew, Flinders, Gillies, and Carr	To enable members to see the relationship between the proposal and the adjacent housing
4b: Garage Court Site, Newbury Avenue	Cllrs Galvin, Shepherd, Cannon, Craghill, Crawshaw, Dew, Flinders, Gillies, Hunter and Carr	The application was recommended for approval and objections had been received
4c: 25 Barbican Road, Fishergate	Cllrs Galvin, Shepherd, Cannon, Craghill, Crawshaw, Dew, Flinders, Gillies, and Carr	The application was recommended for approval and objections had been received
4d: Public Toilets, Clarence Street	Cllrs Galvin, Shepherd, Cannon, Craghill, Crawshaw, Dew, Flinders, Gillies, and Carr	The application was recommended for approval and objections had been received

44. Declarations of Interest

Members were asked to declare, at this point in the meeting, any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests that they might have in the business of the agenda. No additional interests were declared.

45. Minutes

Resolved: That the minutes of the Area Planning Sub-Committee meeting held on 05 April 2018 be approved and then signed by the Chair as a correct record.

46. Public Participation

It was reported that there had been no registrations to speak under the Council's Public Participation Scheme on general issues within the remit of the Sub-Committee.

47. Plans List

Members considered a schedule of reports of the Assistant Director for Planning & Public Protection in relation to the following planning applications outlining the proposals and relevant policy considerations and setting out the views of consultees and Officers.

47a. Self-Storage Facility, Water Lane

Members considered a major full application by MJ McCarthy Holdings for the erection of a self-storage facility with associated access and landscaping.

The Officer informed Members that, since the report had been prepared, a request incorporating several ideas seeking to address the objections received in respect of the proposal's impact upon the residential amenity of neighbouring properties (including the amenities of occupants of the approved care

home on the adjacent site to the North-West) had been received from the applicant.

Cllr Shepherd moved and Cllr Gillies seconded a motion to defer the application and it was then

Resolved: That the application be deferred.

Reason: So that the relevant options can be explored in light of the applicant's request to address the objections included in the report.

47b. Garage Court Site, Newbury Avenue

The general regulations (Reg3) application by City of York Council (CYC) for the erection of 5no. bungalows with associated gardens and parking, following the demolition of existing garages was presented to Members.

The Officer provided an update which included additional drainage and highways conditions. It was highlighted that any late objections as well as written representations received after the report had been written were similar in nature to those that had been previously received and incorporated into the report. In response to Members' questions, the following was then clarified:

- It was not possible to include a condition on additional parking spaces as there was no space for more off-site parking; a relatively small number of cars would be displaced as a result of demolition of the garages.
- The M4(3) bungalows were fully wheelchair-accessible with designated wheelchair parking spots; the M4(2) bungalows were also wheelchair-accessible; the electric scooters could be parked in the sheds.

Some Members stated that the site could be used for creating a larger number of social houses of smaller size. Other Members, however, argued that the city was also in need of bungalows for the growing population of elderly people.

Cllr Gillies moved and Cllr Carr seconded a motion to approve the application and it was then

Resolved:

That the application be approved, subject to the additional conditions:

Drainage conditions

1. Prior to construction, details of the proposed means of foul and surface water drainage, including details of any balancing works and off-site works, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented prior to first occupation of the dwellings.

The information shall include site specific details of:

- i) the means by which the surface water discharge rate shall be restricted to a maximum 9.2 l/sec, and
- ii) the means by which the surface water p to the 1 in 100 year event with a 30% climate change allowance shall be achieved
- iii) future management and maintenance of the proposed drainage systems

Reason: So that the Local Planning Authority may be satisfied with these details for the proper and sustainable drainage of the site.

2. Unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason: So that the Local Planning Authority may be satisfied that no foul

and surface water discharges take place until proper provision has been made for their disposal.

Highways Conditions

1. Prior to commencement of construction, full engineering, drainage, street lighting and constructional details of the streets proposed for adoption shall be submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter, be constructed in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interest of good planning and road safety.

2. Hwy 19 – Car parking laid out
3. Prior to the commencement of development, the four parking spaces accessed off Newbury Avenue shall be constructed in accordance with the approved plans and made available for public use.

Reason: In the interests of the safe and free flow of the highway.

Reason:

The site is a brownfield site in a sustainable location near to local shops, amenities and public transport links and it would, in principle, be suitable for redevelopment for housing purposes. The proposal would deliver social housing of a type needed within the City. In design terms, the scheme would be in keeping with neighbouring properties and would provide enhanced external amenity space for all residents. There

would be no adverse effect on highway safety and no significant adverse effects upon the amenity of surrounding residents, subject to the imposition of the suggested conditions.

47c. 25 Barbican Road, Fishergate

Members considered a major full application by Mr D Blackwell for a conversion of 25 and 26 Barbican Road into 10no. apartments with associated external alterations and a 3-storey rear extension (re-submission).

The Officer confirmed that the scheme had been refused in January 2018 and was subsequently amended to reduce the projection of rear extension by 1.6 metres. It was added that the buildings were located outside the conservation areas and that there were no observations received from Yorkshire Water. In response to Members' questions, the following was noted:

- Waste management plans for main residential buildings were not normally required as part of the planning application; additional condition could be imposed subject to Members' request.
- Managing crime and security in the area in question could include door control and CCTV; it would be difficult to enforce specific conditions as they were not within the planning enforcement remit.

Pat Wills spoke against the application on behalf of Fishergate Planning Panel. She stated that the two properties concerned were architecturally separate; granting the planning permission would change the fenestration of both properties, break the uniform appearance of the area and result with loss of two family homes. She added that, by approving the plan, CYC would be setting precedent to the schemes that provided poor quality of life for York residents.

During the debate, Members highlighted that no substantial changes had been made to the application after it had been refused in January 2018 and that the development would be out-of-keeping with residential houses. Some Members were also concerned about the proposed room size and location which was at times lower than the Government's recommended standard of 38m². It was clarified that the national amenity

standards were not embedded in the Local Plan which meant that the application could not be refused on those grounds. However, Members could refuse the application on the basis of the development's inability to provide a decent level of residential accommodation (without referring to the standards themselves).

Cllr Flinders moved and Cllr Cannon seconded a motion to refuse the application and it was

Resolved: That the application be refused.

Reason: The proposed development, by reason of the size, scale and massing of the proposed extension is considered to be out of character with the existing pattern of development on the east side of Barbican Road in the vicinity of the site, resulting in harm to the visual amenity of the area. Therefore, the proposal would result in the overdevelopment of the application site contrary to Policy GP1 and H8 of the Draft Development Control Local Plan (2005) Policy D1 of the Pre-Publication Draft Local Plan (2017) and paragraph 17 of the National Planning Policy Framework.

47d. Public Toilets, Clarence Street

A full application by Mr Malcolm Holt for a conversion of part-public convenience to a café was presented to Members.

The Officer provided an update, clarifying that the description of the application had been amended to include the takeaway element and that three additional objections from local businesses on Gillygate had been received, all of which were similar to objections already expressed in section 3.9 of the report. Members were informed that the application had been called to the Committee by Cllr Craghill in response to public concerns raised in relation to loss of public toilet facilities and the principle of the provision of café facilities in public car parks. In response to Members' questions, the following was also explained:

- Paragraph 3.3 of the report referred to the comments made by the Forward Planning Team and not to the Policy R1 *Retail Hierarchy and Sequential Approach* itself; the development of a café use within the defined city centre was considered acceptable in principle and would not require impact assessment under the emerging Local Plan.
- Gillygate had no separate designation in the emerging Local Plan.
- The scope for the Committee to request a retail impact assessment of the application on Gillygate would be limited because of the wording of the policy and, if requested, the results could be meaningless given the small size of the unit in question.
- Policy ENV2 *Managing Environmental Quality* (Paragraph 4.4), referring to not allowing development where future occupiers could be subject to significant environmental impacts such as noise, could include staff members working on site. However, the Air Quality Officers did not raise this in the report.
- Specific conditions in relation to reducing crime and antisocial behaviour were outside the remit of planning enforcement.

Christopher Wilson spoke on behalf of the applicant in support of the application. He highlighted that providing the facility with staffing and appropriate levels of surveillance would result with a better control of the area and could enhance its appearance for the visitors. He reiterated his willingness to tackle relevant issues such as homelessness and antisocial behaviour at the site, including through any conditions imposed by the Committee. Finally, he added that York had a small business community and flexibility was needed for any business owner to remain competitive. In response to questions, he stated that it was not possible to predict what portion of revenue / orders would be achieved by means of takeaway and that his relationship with the business running the toilet was on a landlord-tenant basis.

Jill Richards, owner of Wackers (fish & chips restaurant) at Gillygate, spoke against the application on behalf of local business owners, emphasising health and environmental impacts of the proposal: negative effect on staff members

present within a proximity of idling coaches, reversing coaches that posed a danger for pedestrians across a small car park, more litter in the area, and increased risk of antisocial behaviour due to extended opening times. She also added that coaches would not switch the engines off in exchange for hot water offered by the café as they were needed to keep the air-conditioning and heating on.

Elizabeth Bakes, owner of Bakes & Co (deli and coffee shop) at Gillygate, also spoke against the application, implying that there was not enough business to support another café due to the area reaching a saturation point and stating that the Guildhall Planning Panel had already objected to the quantity of food facilities at Gillygate. She expressed her concerns that an additional establishment would have a detrimental economic impact on many local family-owned businesses and that small shops should be encouraged at Gillygate instead.

Honorary Alderman Brian Watson also spoke in objection to the application, noting considerable harm from the air pollution at the site as well as presence of vulnerable people near the prospective café. He also claimed that the unit should be considered for the indoor use only.

Matthew Greenwood, Chair of York Tour Operators' Guild, then spoke against the application, highlighting that further reduction of the toilets would affect tourists' perception of the city due to the fact that alternative toilet facilities at Union Terrace did not have sufficient capacity for cohorts visiting York on coaches. He also reported that Healthmatic toilets in the city centre were frequently closing before 5pm which was against the contract stipulating the 7.30am – 10.00pm opening hours.

Members discussed the arguments brought by the Officers and public speakers, concentrating on the overall picture of toilet facilities in the city centre, potential harm to vitality and sustainability of the neighbourhood as well as risk of increased level of antisocial behaviour should the application be approved. Some Members, however, were of the view that the presence of a new café could decrease the level of antisocial behaviour and would not substantially increase the competition at Gillygate. Members also agreed that putting mitigation against environmental impacts such as noise and pollution from idling coaches would be difficult to achieve.

Cllr Carr moved and Cllr Gillies seconded a motion to refuse the application and it was

Resolved: That the application be refused.

Reason: 1. The proposed additional café use, due to its location within the coach and car park, would result in harm to the vitality and viability of existing businesses in Gillygate and, as such, would fail to enhance the gateway street of Gillygate contrary to policy SS3 of the Local Plan Publication Draft (February 2018). The proposal would be contrary to policy R1 of the Local Plan Publication Draft (February 2018) which seeks to maintain and enhance the vitality and viability of the city centre and policy S5 of the Draft Development Control Local Plan (2005) which states that permission will be granted for retail and service uses only where this would not harm the vitality of individual streets.

2. The proposed café use would be located in an area where North Yorkshire Police have identified a high level of anti-social behaviour which could impact on the security of the scheme. The proposed new development has the potential to increase these levels of anti-social behaviour and vandalism and consequently the impact on the safety and well-being of staff and customers and the visual amenity and environmental quality of the area. The local planning authority is of the opinion that a management and maintenance plan would not be sufficient to mitigate against the harm to the area which would result from increased levels of anti-social behaviour. The proposal is, therefore, contrary to paragraph 69 of the National Planning Policy Framework which states that

decisions should aim to achieve places which promote safe environments where crime and disorder, and the fear of crime do not undermine quality of life or community cohesion.

3. The proposal would result in the permanent loss of public toilet facilities in an area which currently has inadequate toilet facilities. This is contrary to policy HW1 of the Local Plan Publication Draft (February 2018) which states that development proposals which involve the loss of facilities last used for community purposes will not be supported unless it can be demonstrated that facilities of equivalent or greater capacity and quality are provided elsewhere on the site or off-site, in an area which better meets the community's needs; or the facilities no longer serve a community function. It is considered that none of the caveats to the policy are satisfied in this case.

[Cllr Orrell left at this point in the meeting].

48. Appeals' Performance and Decision Summaries

Members received a report informing of the Council's performance in relation to appeals determined by the Planning Inspectorate between 1 January and 31 March 2018, and providing a summary of the salient points from appeals determined in that period, together with a list of outstanding appeals at date of writing.

It was

Resolved: (a) That the report be noted.

(b) That information on progress of appeals APP/TPO/C2741/3909 and APP/TPO/C2741/3907 be provided to Members.

Reason:

To inform Members of the current position in relation to planning appeals against the Council's decisions as determined by the Planning Inspectorate.

Cllr J Galvin, Chair

[The meeting started at 4.30pm and finished at 6.30pm].